

ACT NO. 8002

BILL NO. 32-0040

THIRTY-SECOND LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2017

An Act amending title 1 Virgin Islands Code, chapter 11 adding section 197a to commemorate the week of June 26th to July 3rd as Virgin Islands Freedom Week; amending title 30 Virgin Islands Code, chapter 7, section 127 (a) to reduce the number of billing cycles for back billing for water and power; amending title 5 Virgin Islands Code, chapter 401, section 4511 (a) relating to the Board of Parole, to strike a superseded reference to the Department of Justice; amending title 2 Virgin Islands Code, chapter 5, sections 71 and 76 relating to compensation and allotments for senators, to provide for the prorating of salaries and allotments; providing for an appropriation of \$150,000 to the Department of Public Works for planning and readaptable use of the J. Antonio Jarvis Elementary School, and certain parcels on Hospital Street in St. Croix and on Prindsens Gade, Kings Quarter, St. Thomas; providing for an appropriation of \$25,000 from the St. Croix Capital Improvement Fund to Juan F. Luis Hospital for the gastroenterology department; amending title 22 Virgin Islands Code, chapter 65, section 2732 (c) relating to health insurance coverage for autism spectrum disorders, to extend treatment to the home; amending Act No. 7897, section 2 to reduce the appropriation for Territorial Scholarships by \$200,000 and to provide an appropriation of \$200,000 for discretionary scholarships in critical areas; amending title 33 Virgin Islands Code, chapter 3, section 43 relating to excise taxes, to change the rates on foreign and domestic beers per reusable keg and distilled spirits; providing for an extension of the date for enforcement of the ban on plastic bags; extending the availability of the \$50,000 appropriation to the Department of Sports, Parks, and Recreation to construct a recreational facility in Estate Calquohoun; and amending title 33 Virgin Islands Code, section 54 (e) extending the availability of certain funds collected under the Hotel Room Tax

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WHEREAS, many of our African ancestors were living as free and self-determined citizens in democratically ruled nations before Europeans came to Africa; and

WHEREAS, our African ancestors knew from their oral and written documentation the accomplishments of African people throughout the African continent and elsewhere in the fields of navigation, science, astronomy, math, medicine, masonry, philosophy, etc.; and

WHEREAS, our African ancestors fought for their freedom from the time they were captured and never stopped planning, organizing, and fighting – whether overtly or covertly; and

WHEREAS, our African ancestors were treated as prisoners of war in prison camps, mistakenly called plantations, where some of the worst atrocities known to man or woman occurred, while the treasuries of Denmark, England, France, Holland, Spain, Belgium, Germany, Italy and Portugal benefitted from their free labor; and

WHEREAS, in 1833 Governor General Peter Von Scholten, the then Governor of the Danish West Indies, today the Virgin Islands of the United States, went to Denmark seeking new laws to deal with the enslaved African population- this coming on the heels of the freeing of the enslaved Africans in the English West Indies; and

WHEREAS, Governor General Peter Von Scholten was able to obtain an ordinance in 1834 that allowed an enslaved African to purchase his freedom even against the objection of his owner, provided the enslaved African paid his designated full value; and

WHEREAS, on July 28, 1847, King Christian VIII of Denmark issued a decree abolishing slavery for all "new born", but leaving slavery in place for another twelve years; and

WHEREAS, this decree did not sit well with many enslaved Africans who realized that they would not live to see the day that they would be free; and

WHEREAS, determined to seek an earlier resolution to outlaw slavery, Moses "General Buddhoe" Gottlieb, an educated master sugar boiler from La Grange, and Admiral Martin King, his lieutenant from a mid-island plantation, planned a strategy to organize the enslaved Africans to end the oppressive system that kept them enslaved; and

WHEREAS, on July 2, 1848, a call went out to enslaved Africans to come to Fort Frederik in the town of Frederiksted, where by midnight some 8000 enslaved Africans had gathered; and

WHEREAS, fearing the worst, plantation owners and their children deserted their houses and took to the boats and ships anchored in the harbor while some of the owners and the militia barricaded themselves in the Fort, in churches and anywhere else that they considered safe; and

WHEREAS, on July 3, 1848, the enslaved Africans ripped up the whipping post and heaved it into the sea, and a call was sent out for military assistance; and

WHEREAS, when the military assistance arrived they were confronted by so large a crowd that they became petrified and took refuge behind the wall of the Fort; and

WHEREAS, upon arrival of the noon hour, Moses Gottlieb demanded freedom for all or they would burn down the town of Frederiksted and the rest of St. Croix, and the hour was extended to 4 pm; and

WHEREAS, minutes before 4 pm Governor General Peter Von Scholten, who recently had returned from St. Thomas, arrived at Fort Frederik in the town of Frederiksted, and after being briefed about the events that had occurred in the town, walked to a commanding post and announced "*All unfree in the Danish West Indies are from today Free*", and thus on July 3,

1848, due to their heroic efforts, the enslaved Africans in Frederiksted, St. Croix succeeded in freeing all unfree persons in the Danish West Indies from the bonds of chattel; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 1 Virgin Islands Code, chapter 11, is amended by adding section 197a that reads as follows:

“§197a. Virgin Islands Freedom Week. The dates of June 26th through July 3rd of each year shall be observed as ‘Freedom Week’ in the Virgin Islands to commemorate the emancipation of the enslaved persons in the Danish West Indies, now the Virgin Islands of the United States, and any other freedom struggles of oppressed people that are ideologically consistent therewith. Public ceremonies and programs recognizing and honoring Virgin Islands heroes shall be held throughout the Territory and on WTJX channel 12, the Public Television Station in the Virgin Islands.

(a) At least fifteen (15) days prior to “Freedom Week”, the Governor shall issue a proclamation calling upon all residents to join in appropriate ceremonies to reflect upon our ancestors’ struggles.

(b) The Governor shall appoint a committee each year to coordinate with Virgin Islands-based organizations and other interested community groups and develop appropriate plans, programs, marketing initiatives and ceremonies for the commemoration, memorialization and celebration of Virgin Islands Freedom Week throughout the Virgin Islands and our Caribbean sister/brother islands.

(c) The Legislature on Emancipation Day in alliance with Virgin Islands-based governmental/nongovernmental organizations shall hold appropriate and official ceremonies on St. Croix, St. John and St. Thomas highlighting the historical narratives of freedom, liberation, self-determination and emancipation of the people, history, and culture of the Virgin Islands.

(d) The Commissioner of Education shall be responsible for organizing and publicizing events throughout public schools to celebrate, acknowledge and commemorate history, culture, heroes, heroines, and more for Virgin Islands Freedom Week.

(e) The Commissioner of Tourism shall be responsible for organizing and publicizing events throughout the Virgin Islands and abroad to commemorate, celebrate, acknowledge and promote Virgin Islands Freedom Week.

SECTION 2. Title 30 Virgin Islands Code, chapter 7, section 127, subsection (a) is amended as follows:

~~(1) In paragraph (1) by striking “three billing cycles” and inserting “one billing cycle”, by striking “each”, by striking “three months” and inserting “one month” and by striking “such cycles” and inserting “such cycle”;~~

~~(2) In paragraph (2) by striking “the three billing cycles” and inserting “the one billing cycle”, by striking “each” and by striking “three months” and inserting “one month”.~~

SECTION 3. Title 5 Virgin Islands Code, chapter 401, section 4511 is amended in subsection (a) by striking “Department of Justice”.

SECTION 4. Title 2 Virgin Islands Code, chapter 5 is amended in the following instances:

(a) Section 71 is amended after “installments” by inserting “prorated from the date the member takes office to reflect the actual portion of the year the member actually serves”.

(b) Section 76 is amended by adding subsection (e) to read as follows: “(e) The allotments granted under this section must be prorated from the date the member takes office on a monthly basis over the period of the allotment.”

SECTION 5. (a) The sum of \$150,000 is appropriated in the fiscal year ending September 30, 2017, from any available funds to the Department of Public Works for the planning and readaptable use of the J. Antonio Jarvis Elementary School and Parcels No. 21, 22, and 23 Hospital Street, Christiansted, St. Croix, Virgin Islands, Parcels No. 20, 21, 22, 23 and 25 Prindsens Gade, Kings Quarter, St. Thomas, Virgin Islands.

(b) The sum appropriated in subsection (a) remains available until expended.

SECTION 6. Notwithstanding 33 V.I.C. § 3087(a), the sum of \$25,000 is appropriated from the St. Croix Capital Improvement Fund in the fiscal year ending September 30, 2017, to the Juan F. Luis Hospital for the gastroenterology department to expand scoping and other outpatient procedures.

SECTION 7. Virgin Islands Code, title 22, chapter 65, section 1732(c) is amended by inserting “school,” before the word “home”, in paragraphs (1), (4) and (6).

SECTION 8. Act No. 7897 is amended in Section 2 GENERAL FUND –NL M1244 Territorial Scholarships by striking “\$400,000” and inserting “\$200,000” and by inserting “and \$200,000 to be used for discretionary scholarships in critical areas” at the end.

SECTION 9. Title 33 Virgin Islands Code, Subtitle I, chapter 3, section 42, subsection (a) as amended by Act No. 7987, sections 2 and 4, is amended in the following instances:

(a) Schedule 1, is amended

(1) in paragraph (3) by striking “\$8.25” and inserting “\$23.50 or \$.017 per ounce”, and

(2) in paragraph (4) by striking “\$5.70” and inserting “\$17.32 or \$.01252 per ounce”.

(b) Schedule VIII is amended after "\$6.00 per" by inserting "nine-liter" and after "case" by inserting "or equivalent".

~~SECTION 10. (a) The April 1, 2017 effective date for assessing penalties and taking other enforcement actions for violation of the ban on plastic checkout bags under 29 V.I.C. §500u is extended to August 28, 2017, for businesses that can provide proof that non-recyclable bags were ordered before October 7, 2016.~~

~~(b) Proof that the non-recyclable bags were ordered as specified in subsection (a) must include any two of the following:~~

- ~~(1) an invoice or any similar document;~~
- ~~(2) a bank statement or any similar document; and~~
- ~~(3) a bill of lading or any similar document.~~

~~(c) The Virgin Islands Waste Management Authority shall waive or refund any fine assessed before the effective date of this section against any business granted an extension under subsection (a) of this section.~~

SECTION 11. The \$50,000 appropriation in section 12 of Act No. 7832 for the fiscal year ending September 30, 2016, from the St. Croix Capital Improvement Fund to the Department of Sports, Parks and Recreation remains available until expended for the acquisition of real property to construct a recreational facility in Estate Calquohoun on the island of St. Croix.

SECTION 12. Title 33 Virgin Islands Code, section 54 (e)(1), as amended by Act No. 7767 section 3 (b) is amended by adding at the end of subparagraphs (A), (B), (C) and (D): "The funds remain available until expended."

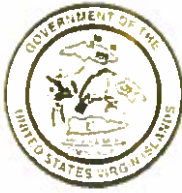
Thus passed by the Legislature of the Virgin Islands on June 1, 2017.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 9th Day of June, A.D., 2017.



Myron D. Jackson
President

Nereida Rivera O'Reilly
Acting Legislative Secretary



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

THE GOVERNOR'S OBJECTIONS

Bill No. 32-0040 is hereby approved with the exception of the following items, part or parts, portion or portions thereof, which are hereby objected to (and deleted and disapproved in full) pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954 as amended:

SECTION 2. Title 30 Virgin Islands Code, chapter 7, section 127, subsection (a) is amended as follows:

(1) In paragraph (1) by striking "three billing cycles" and inserting "one billing cycle", by striking "each", by striking "three months" and inserting "one month" and by striking "such cycles" and inserting "such cycle";

(2) In paragraph (2) by striking "the three billing cycles" and inserting "the one billing cycle", by striking "each" and by striking "three months" and inserting "one month".

SECTION 10. (a) The April 1, 2017 effective date for assessing penalties and taking other enforcement actions for violation of the ban on plastic checkout bags under 29 V.I.C. Section 500u is extended to August 28, 2017, for businesses that can provide proof that non-recyclable bags were ordered before October 7, 2016.

(b) Proof that the non-recyclable bags were ordered as specified in subsection (a) must include any two the following:

- (1) an invoice or any similar document;
- (2) a bank statement or any similar document; and
- (3) a bill of lading or any similar document.

(c) The Virgin Islands Waste Management Authority shall waive or refund any fine assessed before the effective date of this section against any business granted an extension under subsection (a) of this section.

Witness my hand and the seal of the Government of the United States Virgin Islands, at Charlotte Amalie, St. Thomas, Virgin Islands, this 26th day of June, A.D., 2017.





Kenneth E. Mapp
Governor



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

June 26, 2017

VIA MESSENGER

The Honorable Myron D. Jackson
Senate President
Thirty Second Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

OFFICE OF THE
SENATE PRESIDENT
MYRON D. JACKSON
SENATOR
JUNE 26, 2017

Re: Governor's Action on Bill numbered 32-0040

Dear Mr. President:

I write to advise you that, pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954 as amended, I have today acted on the following legislative bill:

I have approved Bill No. 32-0040, an act to amend title 1 Virgin Islands Code, chapter 11, adding section 197a to commemorate the week of June 26th to July 3rd as Virgin Islands Freedom Week; amending title 30 Virgin Islands Code, chapter 7, section 127(a) to reduce the number of billing cycles for back billing for water and power; amending title 5 Virgin Islands Code, chapter 401, section 4511(a) relating to the Board of Parole, to strike a superseded reference to the Department of Justice; amending title 2 Virgin Islands Code, chapter 5, sections 71 and 76 relating to compensation and allotments for senators, to provide for the prorating of salaries and allotments; providing for an appropriation of \$150,000 to the Department of Public Works for planning and readaptable use of the J. Antonia Jarvis Elementary School, and certain parcels on Hospital Street in St. Croix and on Prindsens Gade, Kings Quarter, St. Thomas; providing for an appropriation of \$25,000 from the St. Croix Capital Improvement Fund to Juan F. Luis Hospital for the gastroenterology department; amending title 22 Virgin Islands Code, chapter 65, section 2732(c) relating to health insurance coverage for autism spectrum disorders, to extend treatment to the home; amending Act. No. 7897, section 2 to reduce the appropriation for Territorial Scholarships by \$200,000 and to provide an appropriation of \$200,000 for discretionary scholarships in critical areas; amending title 33 Virgin Islands Code, chapter 3, section 43 relating to excise taxes, to change the rates on foreign and domestic beers per reusable keg and distilled spirits; providing for

an extension of the date for enforcement of the ban on plastic bags; extending the availability of the \$50,000 appropriation to the Department of Sports, Parks, and Recreation to construct a recreational facility in Estate Calquohon; and amending title 33 Virgin Islands Code, section 54(e) extending the availability of certain funds collected under the Hotel Room Tax.

While I have approved Section 1 of this measure to provide for Virgin Islands Freedom Week, I must advise the Members of the Legislature that it has provided no funding for the tasks it requires. Hence, nothing will be done. However, today I have executed a Proclamation proclaiming June 26, 2017 to July 3, 2017, Virgin Islands Freedom Week.

Relative to Section 4 of the bill which amends Title 2, Virgin Islands Code §§ 71 and 76 to provide that installments to Senators be prorated from the date the Member takes office to reflect the actual portion of the year the Member actually serves. Why is the Legislature involving me in the administration of its budget? This is a clear "separation of powers" issue. The Legislature administers its budget to the will of at least eight (8) of its Members. Asking the Governor to assist you in codifying an act that you may later usurp by a majority vote of your Members is at best a "waste of time."

After dutiful consideration, I have line-item-vetoed the following sections:

I have line-item-vetoed Section 2 which limits the time the Virgin Islands Water and Power Authority may seek to correct an improperly issued bill to a consumer. Currently, the Virgin Islands Water and Power Authority has up to ninety (90) days in which it can correct and back issue a bill to a customer. The 90 days provided is within industry standards and below other jurisdictions which provide for up to two (2) years. Why is the Legislature reducing the number of days to correct a bill to thirty (30) days? This does not help a ratepayer, in fact it harms all of us who rely on dependable and affordable power from the Authority. If a subscriber of WAPA uses 100 kilowatts of power; shouldn't that subscriber pay for using 100 kilowatts of power? Why should the remaining ratepayers be saddled with this cost because it may take the WAPA more than thirty (30) days to correct an error on a bill? This measure is nothing more than an end-run around a subscriber paying the power or water it consumed. Have the Members of the Legislature given any thought about the negative impact this may have on the WAPA? Do you care?

I have line-item-vetoed Section 10 for extending the deadline for the effective date on use of plastic bags in the Territory. The section also requires that those entities who may have been fined for violating the ban shall receive a refund of the fines paid.

Change requires courage. Many retailers and consumers have greeted the ban on plastic bags well. They prepared themselves, spent thousands of dollars on brown bags and reusable shopping bags. Many businesses have purchased large orders of bags in compliance with the new law. For whom and why are we retreating to re-allow plastic bags into the market place?

Last week, I met with officials of the Federal Aviation Administration on the critical issues affecting the landfill outside of the Henry E. Rohlsen Airport. Specifically, what is the Government

of the Virgin Islands' action plan to reduce refuse and waste into the Anguilla landfill? What is the closing date for this landfill?

I am hoping the Legislature would act soon on our source separation and aluminum and glass redemption proposals so we can address the many issues affecting our landfills. Repealing the ban on plastic bags while the community has accepted the change is a step in the wrong direction.

In January 2017, I resubmitted those two pieces of legislation to the 32nd Legislature. Let's do more to protect our environment, not less. Living on insular islands makes dealing with waste in an environmentally safe manner is quite challenging. We experience this as we wade through multiple federal consent decrees and millions of dollars in fines concerning our landfills. We have the ability to change course to handling our solid waste in a responsible manner. I ask the Members of the 32nd Legislature to join me and the community in doing so by enacting the remaining source separation and bottling recycling and redemption bills.

As always, thank you for your continued work on behalf of the people of the Virgin Islands.

Sincerely,



Kenneth E. Mapp
Governor

Enclosures